

# GOV. ROSS' MESSAGE.

Continued from Third Page.

the importation of one infected cow caused the destruction of \$400,000,000 worth of cattle to Australia in a very short time.

It would be difficult to compute the loss from the disastrous consequences which would necessarily follow should there be an outbreak of this plague within the borders of our state. The markets of the world would at once be closed against our stock-raisers, and every neighboring state, actuated by motives of self-preservation, would maintain rigid quarantine regulations against the egress of their stock, which would inevitably accomplish the bankruptcy and ruin of all of our resident stock-raisers. I therefore invite your consideration to the importance of enacting a proper and wise quarantine law to effectively protect our people from the introduction of infected cattle. It is believed that such a law can be operated with but little cost to the taxpayer.

**INSURANCE, STATISTICS AND HISTORY.**  
This office is regarded by many as a useless and merely ornamental adjunct to the state government. But the purpose of its creation was both wise and patriotic, and it should be maintained and encouraged. States, like individuals, who have no thing worthy of remembrance, have no need of the historian. Those states which have accomplished little in the past and with no ambition for the future, have little use for the statistician. Our state, however, has a history which it is proud to maintain before the world, and the object has been to keep alive the memory, the maxims and deathless example of our illustrious sages and statesmen who founded our government, and to furnish our youth the lessons of their glorious battles and brilliant deeds through which we received the inestimable blessings we now enjoy, and to stimulate those who follow a like ambition for honorable name and fame.

In conjunction with the collection and preservation of the materials necessary for a history of our state worthy of record, it is proper there should be an exhibition of its wonderful and unparalleled growth which has followed the enterprise of our people in the development of its great natural advantages, thus inviting the industrious emigrant to settle among us, while, at the same time, we encourage a pride of country in our citizens, without which no people have ever achieved lasting renown or greatness.

The existing law requires that the commissioner shall cause to be prepared, each year, a statistical report of the diversified interests of the state, by counties, including population, area, yield of crops, value and price of labor, etc. When there is a failure, however, to make the necessary appropriations for the execution of these provisions of law, as has been the case, the commissioner can simply issue to the several assessors of the state forms containing questions embracing the growth and industry of each county necessary to enable him to furnish the report required by the law. But as the law prescribes no penalties for non-compliance on the part of assessors, the result has been, few of them have paid any attention to this requirement. To leave the office in this shape, we can hardly expect it to subserv the useful purpose for which it was intended, and I respectfully suggest for your consideration whether or not it might be made to more fully meet the expectations of the people, by establishing as a part of its work, in addition to existing functions, a more thorough development of the agricultural feature, including horticulture and forest culture. An agricultural bureau, on a liberal and comprehensive scale has been organized in nearly every state except Texas. It is conceded by all geologists who have investigated the subject that if the proper normal meteorological conditions could be restored to the prairie regions of the state, comprising much the larger part of its area, those comparatively unproductive and unfruitful regions would become as fertile and as productive as any lands in the United States. They agree also that these conditions can only be restored by the process of securing the growth of forests about these treeless plains. If it were possible to more effectually check the frequent and destructive fires which sweep over these regions, it is believed, from our observation of other parts of our state of similar character, that they would, in course of years, become densely timbered with a native forest growth, which would not only increase, but equalize the rainfall, so as to make the crop failures from drought almost unknown and greatly increase the productiveness of the rich soil throughout the entire state.

**STATE TROOPS AND MILITIA.**  
I respectfully refer you to the well-merited tribute paid by my predecessor to the efficient and substantial aid which the citizen soldiery have been found so ready to afford the executive in vindicating the majesty of the civil law. All honor is due these gallant and faithful officers and men, and to the wisdom and recognition of your bodies I commend their just claims.

**CONSTITUTIONAL AMENDMENTS.**  
Frequent changes in organic laws are to be deprecated and avoided, tending, as they necessarily do, to produce a state of unrest and apprehension in the public mind, to beget a spirit of vassilation and of dissatisfaction on the part of the people. But it should be remembered that the advancement of a community and its development in wealth and population produces a change of circumstances not foreseen by those charged with the duty of framing the constitutions of government. And these changes necessitate the adaptation of the frame-work of the government to new conditions with which the law maker is confronted.

Our endeavor should be to act with reasonable conservatism in this as in all other matters of legislation, but at the same time we should not continue to tolerate evils which have become almost insupportable, simply to avoid a change or to interfere with the designs of those for whom we have a profound reverence.

The constitution under which we live was adopted with rare unanimity and most of its provisions have been found salutary and satisfactory after a patient trial for ten years, but even before its final adoption, and while its merits and demerits were under discussion before the people, grave apprehensions were entertained by many thoughtful and patriotic citizens that the system of judicial procedure proposed in the instrument would be found by practical experience to be wholly inadequate and insufficient for the wants and interests of the state.

The distinguished and patriotic citizen who then filled the executive chair, himself a jurist of established reputation, took occasion in his first message to the legislature to call attention to the apparent defects in the judicial system or-

dained by that instrument, and to urge its immediate and radical amendment; and each legislature since has devoted much valuable time to the discussion of amendments, which culminated in 1881 by the submission of a proposition of an amendment to the people, to be rejected by a small majority, at a special election, in which only a fractional part of the voters of the state participated.

The practical operation of our judicial system for the past ten years has demonstrated that our supreme court, composed of only three judges, is unable to dispose of the business which comes before it, and that, too, without any fault on the part of its incumbents. Various causes are assigned for this accumulation, and it may be well for your honorable bodies, by appropriate methods, to investigate and ascertain, as far as it may be practicable, what is contributing to this condition of affairs, in order that the proper remedy may be applied.

If it be found that our inferior tribunals are improperly constituted, and that this defect has precipitated an unnecessary burden upon any of our higher courts, it would be the part of wisdom to reform and reorganize the lower courts so as to advance and enlarge their efficiency, and thus avoid the evils under which we labor.

If it be found that our lower courts, as at present organized, are properly adapted to our interests and need no change, and that the delays in the disposition of appeals is attributable solely to the inadequate force of the higher courts, then it is equally our duty to apply a remedy there, and to provide additional force and facilities for the dispatch of this important public business.

The loss to the state and its people by delay in the disposition of cases on appeal is incalculable, but if it could be estimated with any approximate degree of certainty it would be found that such loss would far more than reimburse the state for any additional outlays in the way of salaries.

It has not unfrequently happened within my own knowledge that appeals have been prosecuted with solvent bonds in cases involving valuable rights of property to the citizen, and the delay of decision was so protracted that the successful litigant found at the close of the litigation that the salaries had become insolvent, and the rights he had sued for and recovered in the courts of his state had failed to furnish him that speedy remedy by due course of law which he had a right to expect and demand as a return for his allegiance and taxes.

This delay in the administration of justice is a reproach to our civilization and a stigma upon the efficiency of our government, and should be removed as speedily as possible.

It is apparent to every observing man that under the existing system the cost of unlimited continuances by agreement and consequent repetition of officers' fees and contingent jail expenses; the manifest abuse of the law designed to allow reasonable pay to sheriffs and attached witnesses when forced to leave the county of their residence, coupled with a lack of proper and certain punishment of those convicted of misdemeanors, by forcing them to pay or go to work, is heaping a burden upon the state and counties for the administration of our criminal laws simply enormous, yet all to be paid by the people, and suggestive of the fact that real reformation and reform must necessarily begin at the bottom as well as at the top of our present system.

While it is far easier to find fault with any system or plan of procedure than it is to suggest the details of a remedy, doubtless there are some of your honorable bodies who have already given serious and anxious thought to this problem, and who are prepared to submit matured propositions for your favorable consideration.

The Bar Association of the state, at its annual session during the last summer, as I learn from the public prints, have formulated a comprehensive plan of amendment, and have appointed a committee of its members to present the same for legislative consideration, and while I am not sufficiently familiar with its provisions to speak advisedly as to its utility, the high character of the distinguished gentlemen and lawyers who have formulated it justify me in commending it to your careful consideration, and in expressing a hope that it will accomplish the most beneficent results for the state if adopted.

**PROHIBITORY AMENDMENT.**  
There are many conscientious, honest advocates of prohibition as a remedy for the admitted evils of intemperance in our state who believe that this is one of the great practical questions which should be decided by an appeal to the ballot box, while there are others equally conscientious and patriotic who do not believe that real temperance can be decreed, created or produced by any forcing process under the operation of prohibitory enactments.

In considering this question it is proper we should bear in mind that in our country the people are recognized as the origin and seat of political power, and that constitutions flow from them instead of being concessions to them—be it simply a rule of action defined by themselves for themselves.

This great and universal principle is contained in the Bill of Rights, which declares that all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit, and therefore they have at all times an inherent and indefeasible right to alter, reform, amend or abolish their form of government in such manner as they may think proper, and as this is a right that is better subject to abuse than to limitation, I therefore suggest to your honorable bodies the propriety of submitting for public consideration such an amendment of this character as you in your wisdom may conclude is demanded by the will of the people. The respective members of your honorable bodies are fresh from the people and know their wishes, and your conclusion on this matter will be accepted by all good citizens as definite and authoritative.

**AMENDMENT OF THE LAWS.**  
I respectfully call your attention to a serious defect in our law of attachment, under the operations of which good citizens are frequently crushed in business and honest creditors defrauded. Since the repeal of our federal bankrupt law, a practice has grown up by which attachments are too readily invoked, either to secure a preference on the part of an honest creditor, or to enable a debtor, in collusion with a fictitious or dishonest creditor, to absorb his entire assets, leaving all other creditors without remedy. I am aware that the principle of the law is to reward the diligent creditor; but it occurs to me that no abstract principle should be rigidly adhered to, to the detriment of the public and damage of honest people, who are without fault themselves.

If creditors desire to obtain priorities, there are other methods by which such

priorities may be secured and full notice thereof given to all who deal with the debtor, and the law should not continue its sanction of a practice which has become a public evil. I therefore recommend the amendment of our attachment law so as to provide that hereafter in case an attachment is levied upon the merchandise of a merchant or dealer that such attachment shall be deemed an act of insolvency, and upon the petition of any other creditor filed in court within a limited time and verified properly, that the court, after giving notice to debtor and attaching creditor, shall appoint a receiver, vacate the attachment and cause the assets to be distributed among all the creditors pro rata. I merely outline this suggestion and leave proper details and safeguards to be supplied by your superior wisdom. I also respectfully call to your attention the numerous and important changes in our penal laws recommended by our court of appeals and embodied in the report of the late attorney-general already laid before your honorable bodies. A careful examination of these suggested changes is due to the high source from which they emanate, and I do not but that many of the suggestions will commend themselves to your favorable consideration, and their adoption effect valuable improvements in our laws.

**THE RAILROADS.**  
I feel it a duty to call to your attention certain phases of the railway question and to ask your thoughtful and patriotic consideration thereof. It is scarce more than fifty years ago when these servants of commerce and of the public were wholly unknown, and yet so rapid and marvelous has been the progress of their construction and development that a large percentage of the wealth of the world is invested in their securities, and their powers, legitimate and usurped, overshadow even the majesty of government and frequently defy its authority. It could scarcely be expected that these new and powerful agencies so rapidly developed and revolutionizing in a few short years the social and business habits of the civilized world could be readily adapted to the wants and necessities of the public without frequent frictions and frequent impositions, even under the most favorable circumstances and the most prudent and patriotic management, and in dealing with the problems engendered by this great revolution in commerce and transportation, we should remember that time and experience are essential agencies in aiding us to determine the just and true solution of the problem, in bringing about that reciprocal understanding and agreement between the public and the railroad as to the relative rights of both, which is essential.

No intelligent citizen can bear hostility to railroads or to the interests of those who have seen proper to invest their means in their construction and operation, and every fair minded man will admit that these investments are entitled to the same protection as is accorded to all other classes of property, and a reasonable return thereon by way of dividends. There can be no desire to injure or destroy their investments, for the grand work they have accomplished in the march of civilization and industrial development, and their absolute necessity in the interest of modern commerce is freely conceded even by those who complain loudly of their real or supposed impositions or exactions.

The policy of our state has been, and still should be, to encourage their continued construction until all of the remote parts of the commonwealth are brought into easy and rapid communication with each other, thus facilitating and encouraging an interchange of products, ideas and associations, and cementing more firmly each year the bonds which bind us together as one homogeneous people.

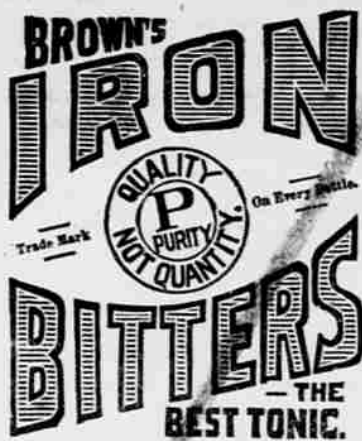
If their property should be ruthlessly assailed, or their operations interfered with, the state is pledged and will cheerfully redeem its obligation to extend the fullest guarantee of security. But in return for this, the state should insist upon perfect obedience to her laws and that loyal allegiance to her behests which is due and exacted from every other class of citizenship.

The manifest intention of our constitution in the matter of railway regulation, though not expressed in direct terms, was to encourage competition and to discourage or forbid combinations among these public agencies.

Until within late years it was generally believed that competition was the true solution of the railway problem, and that the construction of new and competing lines would gradually bring the matter of transportation to that sound, economical basis which in all other business and which constitutes a check upon monopoly and imposition. But the science of railway management has overcome this fundamental principle of political economy and has discarded it as a relic of a barbarous age. Gigantic combinations of wealth and power have absorbed thousands of miles of detached or independent railroads, and have consolidated them, practically into one corporation under one management, and the same spirit and skill have determined that there shall be no railway competition in this state, so that all the roads shall enter into articles of co-partnership and divide the profits upon some basis mutually agreed upon. In modern phraseology this combination is called a "traffic arrangement," but, in fact, it is the same pool denounced by our forefathers and by the courts of all states in which it has been legally tested.

I am aware that it is urged in justification of this arrangement that it tends to equalize rates, especially between the larger and smaller shipping points, and gives stability to legitimate business, and while the argument in this behalf is, in my judgment, specious and delusive, yet, if in fact it was conclusive, and multiplied other blessings should flow from it, the spirit of the constitution and the law should plainly admonish us to do our duty, which plainly appears to me to be an immediate prohibition of the practice by the most stringent and heroic legislation.

If our laws and constitution are wrong they should be changed, but we should never submit to have them defied and set at naught. Better the unsettledness of business and the continued inequality of rates than this, and better the total abolition of railroads with all their blessings and benefits than that few men in a distant locality should possess and exercise the power to levy an exaction at any moment upon our people by a change in transportation rates, which, if done by the constituted authorities of the state, would precipitate a political revolution. This is the danger which threatens us and to which we should address ourselves with earnestness, and I urge you as Texans who are proud of our fame and jealous of our honor, to secure for her the proud distinction of being one of the states in the Union where the rich



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and powerful cannot violate the law without receiving the same condemnation and punishment which is meted out to the poor and weak.

I respectfully suggest to your honorable bodies the propriety of enacting that, hereafter, pooling or combinations between railroads and other common carriers shall be deemed unlawful; and if any officer, agent, servant or employee thereof shall enter into or execute any agreement of that character, or shall operate or assist in operating a railroad under such agreement, or shall knowingly aid or assist in the operation of a railroad under such arrangement, he shall be deemed guilty of a felony, and be imprisoned in the penitentiary for a proper term of years.

Our laws of conspiracy might also be amended to embrace the same transaction, and thus put a stop to a practice which has frequently been stigmatized by the courts as a criminal conspiracy against the public.

I would also call to your attention another phase of the constitution relating to railway regulation—which is discrimination. From a careful reading of the first two sections of Article 10 (10), it would seem that our people, in the adoption of their organic law, were careful to enjoin upon the legislature the duty of preventing two kinds of discrimination:

1. Discrimination by railroads against shippers.

2. Discrimination by railroads against each other.

The first class of discrimination has received repeated attention at the hands of former legislatures, and the present laws upon that subject may, perhaps, be sufficient to afford ample protection to the public. However, the latter class seems to have escaped legislative attention, and its importance to a just and equitable system of transportation is apparent. If the more powerful corporations can refuse at their pleasure to interchange business with their weaker competitors and harass them with onerous discriminations, it is only a question of time when the weaker corporations will be driven to insolvency, or into a combination, against their will, with the stronger, which is disastrous to the public. This has already happened in our state, and our laws should not admit of its repetition. And with the prohibition of pooling, the weaker roads should not be left at the mercy of the stronger, but should be forced by law to do that which they are now doing by voluntary agreement, which is to interchange freight and passengers with each other with due facility.

We have some provisions in our statutes partially aimed at this evil, which may be found in Title 84, article 4251 to 4255 of the Revised Statutes. These provisions are evidently taken from laws passed many years ago, and are totally inadequate and ineoperative. I recommend their substitution with such provisions as may be adapted to the present exigencies.

With these changes in our railway laws, I am of the opinion that we can leave to the near future the proper solution of our transportation difficulties and that the legislation will prove salutary in effecting the desired object. If we can prevent pooling and thereby force an honest competition for public business without discrimination against individuals or other railroads, we will have made decided progress in forcing our railroads to be operated on fair business principles, and can well afford to overlook or ignore minor grievances which in time will most probably correct themselves. The fixing of arbitrary rates by law will, in my judgment, always prove a failure and would often inure to the disadvantage of different localities. And the organization of a commission with powers either absolute or advisory would in the end, I fear, prove but a costly and useless luxury to the people, wholly incapable of doing what the railroads, if left to the attention of the public to abuses about which they were sufficiently informed, and for the correction of which the commission could not be clothed with necessary constitutional powers, and would not give promise of that permanent relief demanded by our people. These are the convictions to which I have arrived after the patient investigation of years with the only purpose of helping to mete out equal and exact justice to the people and the railways alike.

Let us endeavor to force the railroads into active competition with each other, thus necessitating reasonable rates and fair treatment if they would enjoy public patronage. Encourage their construction to all localities, protect their property from violation, deal with them justly, firmly and impartially as with all other citizens, and there will soon be no more necessity for interference with their management than with any other lines of legitimate business.

**CONTINGENT APPROPRIATIONS.**  
I respectfully recommend to your honorable bodies the advisability of a special appropriation to defray any expense which may become requisite in the execution of the laws or the maintenance of public order in the state. It is hoped and believed that it will not be necessary to expend any of the public money in such an exigency, but a reasonable precaution should be observed by equipping the executive with such means and facilities as will enable him to discharge the obligation of his oath to see that the laws are faithfully observed and executed.

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